

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No.11 of 1989

in

SPECIAL CIVIL APPLICATION No.2935 of 1988

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For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

MANIBHAI JETHIDAS PATEL

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Appellant

MR KG VAKHARIA for Respondent No. 1

NOTICE SERVED for Respondent No. 2

GOVERNMENT PLEADER for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 15/12/98

ORAL JUDGEMENT : (Per B.C. Patel, J.)

The appellant being aggrieved by the order of dismissal of the Special Civil Application No.2935 of 1988 dated 7.12.1988, passed by the learned Single Judge of this Court, has preferred this appeal. The appellant earlier filed Special Civil Application No.1168 of 1979 for appointment as Agriculture Officer Grade- I. It appears that before the learned Single Judge hearing the Special Civil Application No.1168 of 1979, letter dated 9.3.1981, Annexure 'D', was produced which was addressed by the Secretary, Gujarat Panchayat Service Selection Board, Ahmedabad to Messrs Ambubhai & Diwanji, Advocates. The letter was placed on record and the learned advocate appearing for the appellant in the matter disclosed his satisfaction to the effect that the grievance of the petitioner does not survive and that it has been remedied by the State. Therefore, it is clear that in view of this letter the appellant was satisfied that he will be getting appointment. In view of this letter, he withdrew the petition. In fact he has been appointed.

2. His grievance in the present Appeal is that he should be deemed to have been appointed as Agriculture Officer Grade- I in the pay scale of Rs.550 - 900/- with effect from 5.11.1977. When Special Civil Application No.1168 of 1979 was placed for hearing, after perusing the letter he ought to have made a grievance by making a prayer that deemed date should be given with retrospective effect or in alternative the appointment be deemed to have been made on 5.11.1977. Having not made any such grievance before the learned Single Judge, who disposed of Special Civil Application No.1168 of 1979, the appellant filed the petition after a period of about 11 years, making a grievance that he should be deemed to have been appointed as Agriculture Officer Grade- I with effect from 5.11.1977. In our view the learned Single Judge has rightly rejected the Special Civil Application. It was open for the appellant, when he was prosecuting the Special Civil Application earlier, to claim date of appointment as he is claiming today. Reading the letter, Annexure 'D' it clearly transpires that only on 17.1.1981 permission was granted for filling in the post of Agriculture Officer Grade- I and the appellant being on waiting list, his name was recommended for the post. The appellant was aware that his appointment will be any date after the letter is placed on record before the court and not before that. having failed before the learned Single Judge on 16.1.1985, now the grievance cannot be entertained. The learned Single Judge has rightly rejected the Special Civil Application.

3. Having no merits, this Appeal is dismissed.

Notice is discharged. No costs.

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